

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LEROY HEFLEY,	§	
	§	No. 96, 2010
Plaintiff Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Kent County.
	§	
CHUKWUEMKA ONUOHA,	§	
	§	
Defendant Below,	§	C.A. No. K10A-02-004
Appellee.	§	

Submitted: February 25, 2010

Decided: March 12, 2010

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

**ORDER**

This 12<sup>th</sup> day of March 2010, upon consideration of the Clerk’s notice to show cause and the appellant’s response to the notice, it appears to the Court that:

(1) The appellant, Leroy Hefley filed this appeal from the Superior Court’s February 19, 2010 order denying his “motion to stay eviction action in JP Ct. 16.” Hefley also filed a motion to stay in this Court.

(2) On February 22, 2010, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing that Hefley show cause why the appeal should not be dismissed for his failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order. In his

response to the notice to show cause, Hefley contends that the Superior Court's February 19, 2010 order is final and appealable.

(3) Absent compliance with Supreme Court Rule 42, the jurisdiction of this Court is limited to the review of a final judgment of a trial court.<sup>1</sup> An order is deemed final and appealable if the order is the trial court's "final act" in the case.<sup>2</sup>

(4) In this case, the Superior Court's February 19, 2010 denial of Hefley's "motion to stay eviction action in JP Ct. 16" is not the court's "final act" in the case. Rather, Hefley's "motion to stay eviction action in JP Ct. 16" was filed in connection with a writ of certiorari that remains pending in the Superior Court. In the absence of Hefley's compliance with Supreme Court Rule 42, the Court concludes that this appeal is premature and must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the appeal is DISMISSED pursuant to Supreme Court Rules 29(b) and 42. The motion to stay is moot.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>1</sup> *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

<sup>2</sup> *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973) (quoting *United States v. F. & M. Schaefer Brewing Co.*, 356 U.S. 227, 232-33 (1958)).